THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1771 of 2005

21.12.2006

Between:

Smt.Rehana Begum

..Petitioner

And

The District Registrar, Stamps and Registration Department,
Collectorate Complex, Guntur. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1771 of 2005

ORDER:

The petitioner herein is the Muthawalli of Big Mosque, Guntur. He filed the Writ Petition seeking a writ of *Mandamus* declaring the action of respondents 1 and 2 in violating the instructions, dated 12.06.1987, issued by the Inspector General of Registration and Stamps, and entertaining registrations of the documents pertaining to wakf property, as illegal and arbitrary.

It is the case of the petitioner that the land admeasuring about Acs.21.28 cents in survey No.245 situated at Reddipalem Village is owned by the Mosque. The fourth respondent herein[1] alleging that he has purchased the land admeasuring Acs.3.50 cents, executed sale deeds in favour of third parties. The Government of Andhra Pradesh and the Inspector General of Registration and Stamps issued guidelines to all the registering authorities of the State not to entertain registrations in respect of transactions relating to wakf properties. In spite of the same, at the behest of the fourth respondent, respondents 1 and 2 are likely to register the document executed by the fourth respondent.

The third respondent, namely, Andhra Pradesh Wakf Board, has filed a counter-affidavit. It is stated that after receiving complaints that the wakf land is being sold, the Wakf Board has sent a letter, dated 29.01.2005, requesting the District Registrar not to entertain registration in respect of the land comprising in survey No.245.

After hearing learned Counsel for the petitioner, learned Standing Counsel for Andhra Pradesh Wakf Board and learned Counsel for respondents 5 and 6, this Court is convinced that a direction to respondents 1 and 2 as prayed for cannot be granted. The Registration Act, 1908, contains number of provisions under which a person or institution claiming original ownership can raise objections whenever a transaction is sought to be registered by third parties. Indeed, as rightly pointed by the Counsel, any transfer of wakf property either by way of sale, gift, exchange or mortgage, without prior sanction of the Andhra Pradesh Wakf Board is void under Section 51(1) of the Wakf Act, 1995. Further, the Muthawalli or the Andhra Pradesh Wakf Board or its officials at the district level can always approach and raise objections and also request registering authority to put Wakf Board on notice. Indeed, the Wakf Board had already sent a letter on 29.01.2005 to the first respondent to this effect and therefore, respondents 1 and 2 should inform about any registration of transactions in respect of wakf property to the Wakf Board or the

Muthawalli. This observation would safeguard the interest of the Wakf Board.

The Writ Petition, with the above observation, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

21.12.2006
GJ

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[1] During the pendency of the Writ Petition, fourth respondent died and his legal representatives, respondents 5 and 6 are brought on record.